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2003 JUN 23 P 4: 49

June 23, 2003

HAND DELIVERED

Ms. Ellen Weintraub, Chair
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5366

Dear Madam Chair:

This letter is submitted on behalf of Edwards for President, Julius Chambers, as Treasurer, and Senator John Edwards (hereinafter referred to collectively as "Respondents") in response to a complaint filed by The American Conservative Union ("ACU"). Respondents received notice of the ACU complaint from the Federal Election Commission ("FEC" or "Commission") on June 9, 2003.

At the outset, Respondents wish to re-state their public commitment to abiding by the highest ethical standards throughout the current presidential campaign. Respondents are proud of the campaign's efforts to comply, in letter and spirit, with federal election law.

The ACU complaint is based entirely on a mischaracterization of media reports, consisting essentially of two newspaper articles. The first, a *Washington Post* article dated April 24, 2003, reports a Justice Department probe of contributions made by four employees of the Little Rock law firm of Turner & Associates, one of whom indicated to a reporter that Tab Turner, the firm's principal attorney, had said he would reimburse her for contributing to Edwards for President. The second article, published by *The Hill* on May 7, 2003, questions the financial wherewithal and political support of twelve individuals who made \$2,000 campaign contributions to Edwards for President.

The other publications submitted by ACU offer no additional information, but serve as factual references (erroneously in one case) for statements made throughout the complaint. ACU offers no personal knowledge in support of its complaint, and, indeed, admits that the "[c]omplaint is based on the published reports that Edwards for President Committee and John Edwards and numerous donors and fundraisers have violated the

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provisions of federal law related to fundraising for and contributions to presidential campaign committee." ACU Complaint, p. 1 (May 31, 2003).

Importantly, neither the *Washington Post* article, *The Hill* article, nor any of the other publications cited in the ACU complaint, allege any illegal activity by Respondents. In fact, *The Hill* article goes so far as to state that it found "no direct evidence that the pattern of giving in this article constitutes improper or illegal activity on the part of any individuals, law firms or the Edwards campaign." *The Hill* article further states with regard to allegations of possible contribution reimbursements that "[l]egal support staffers who spoke with *The Hill* said they neither expected nor were promised reimbursement for their contributions."

ACU's complaint ignores these statements, and falsely claims that "[t]he *Hill* newspaper reported on May 7, 2003 that Edwards for President campaign documents filed of record with the FEC reveal a pattern of illegal contributions by low-level employees of law firms whose principals are engaged in contributing to and fundraising for the Edwards for President committee." This is not what *The Hill* article states. Here is what *The Hill* article actually reports: "Sen. John Edwards' presidential campaign finance documents show a pattern of giving by low-level employees at law firms, a number of whom appear to have limited financial resources and no prior record of political donations." ACU misrepresents *The Hill* article, and then bases its complaint on that misrepresentation.

To be clear, on April 18, 2003, the *Washington Post* reported that contributions totaling \$8,000 had been made to Edwards for President by four legal assistants at the law firm of Turner & Associates. One donor, Michelle D. Abu-Halmeh, told the *Washington Post* that she made her contribution because Tab Turner, the firm's principal attorney, said he would reimburse her for it. Upon learning of this remark, Edwards for President immediately refunded all four of the contributions, as well as a \$2,000 contribution made by Tab Turner.

Respondents have no knowledge of any promise by Tab Turner or any other individual to reimburse or otherwise pay for contributions made to Edwards for President. The contributions from the four Turner & Associates employees were solicited by Mr. Turner, not by Respondents or by any person associated with Edwards for President. Edwards for President's donor card, which all contributors are asked to complete, expressly states that "all contributions must be made from personal funds and may not be reimbursed or paid for by any other person."

ACU's complaint also falsely claims that "[p]ublished reports from the Center for Individual Freedom's website state that twenty (20) persons identified as paralegals and nine (9) listed as legal assistants employed by Turner & Associates PA in Little Rock, Arkansas, contributed \$2,000 each to the Edwards campaign after receiving assurances that their contributions would be reimbursed." "From this firm alone," ACU continues, "more than \$58,000 in suspicious contributions to the Edwards campaign were received, yet only \$10,000 was reported by the Edwards campaign as being returned to the donors

of that firm.” This ACU statement is false. The report referenced by ACU and submitted as support for its complaint does not make this claim. The report simply states, without limitation to Turner & Associates, that “... 20 people listed as ‘paralegals’ and nine listed as ‘legal assistants’ each gave \$2,000, the maximum contribution allowed per individual per election.” Center for Individual Freedom, www.cfif.org, *John Edwards: An Oops for the Trial Lawyers’ Presidential Candidate*, posted on April 24, 2003. As previously stated, only \$10,000 in contributions was received from individuals associated with Turner & Associates, and the entire amount was refunded by Edwards for President immediately after discovery of an irregularity in the solicitation of those funds. Again, ACU makes a misrepresentation and then attempts to use that misrepresentation to support its otherwise baseless complaint.

The ACU complaint also cites *The Hill* article of May 7th in questioning the legality of contributions received from certain individuals. (“According to *The Hill*, questionable contributions were received from Respondents Stacy Kern; Robert Kern; Elaine Reeves; Else Latinovic; Anita Latinovic; Vikki Sanchez; Donna Hosea; Linda Moen.” ACU Complaint, p.3.) More specifically, in reporting on the contributions made by these individuals, *The Hill* cites certain facts to suggest the donors may have lacked the financial resources and/or a sufficient political identity with the candidate to rationalize their contributions. Unfortunately, a number of the “facts” reported in *The Hill* article are incorrect. *The Hill* acknowledged some of its mistakes in a “correction” published by the newspaper on May 21, 2003 (copy attached). However, ACU did not include a copy of *The Hill*’s corrections with its complaint to the Commission.

Moreover, in the course of preparing this response, a number of additional errors in *The Hill* article were identified. A detailed list of the errors contained in *The Hill* article is attached. Generally speaking, these mistakes diminish substantially the specter raised in the article concerning the individuals identified in the article and their contributions to Edwards for President.

Finally, ACU accuses respondents of a “[f]ailure to report earmarked contributions/failure to report donor(s) as conduit(s) for earmarked contributions.” ACU Complaint, p.4. In support of this allegation, ACU states only the following:

According to *The Hill* ... the contributions from low-level employees contributing at the maximum \$2,000 level arrived on the same day along with contributions from the partners and attorneys of the firms employing the individual donors. Further, the FEC records reflect that contributions from spouses and other family members were also made on the same dates as those from the low-level employees of the law firms. No conduit reports were filed by the law firms which employ the donor-employees.

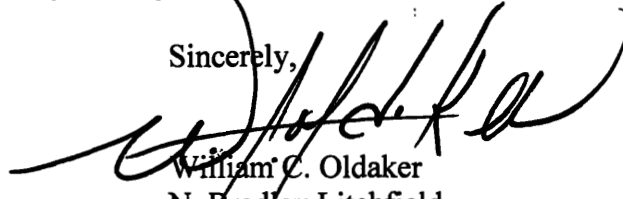
Id. at p.3.

These facts do not constitute a violation of the FEC’s conduit regulation. A law firm, by reason of employing a contributor, is not obligated to file a conduit report

because other members of the firm have made contributions to the same candidate. As to the campaign's reporting obligation, Edwards for President had fundraising representatives at each funding event to collect the contributions for that event. It is possible ACU is suggesting that contributors who brought checks to events on behalf of their spouses or other family members should be deemed conduits. We do not agree with this interpretation of the law.

Because ACU relies entirely on the cited publications to support its complaint, the demonstrated absence of any evidence of illegal activity in any of those publications leaves the ACU complaint without merit. The Commission should not reward ACU's vexatious behavior by finding "Reason To Believe" in this matter.

Sincerely,



William C. Oldaker
N. Bradley Litchfield
William J. Farah

(Enclosures)

cc: Bradley A. Smith, Vice Chair
David M. Mason
Danny L. McDonald
Scott E. Thomas
Michael E. Toner

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The Hill

May 21, 2003 Wednesday

SECTION: Pg. 3

LENGTH: 137 words

HEADLINE: Corrections

BODY:

. The Hill's May 7 issue listed an incorrect phone number for Dittus Communications. The correct number is (202) 775-1401.

. Stacy and Robert Kern, of Los Angeles, Calif., are homeowners, contrary to a suggestion in The Hill's May 7 story about contributions to Sen. John Edwards' (D-N.C.) presidential campaign. The Hill has been informed that the Kerns voted in past elections and previously donated to a PAC. A 1994 California tax lien against Robert Kern was wrongly issued and was released the same year.

Also, the correct name of the husband of Elaine Reeves, of Tampa, Fla., is Thomas.

The Hill regrets the errors.

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***The Hill* Article Cited in ACU's Complaint -
Included Numerous Factual Errors**

<p>“According to The Hill, questionable contributions were received from Respondents Stacy Kern; Eline Reeves; Else Latinovic; Anita Latinovic; Vikki Sanchez; Donna Hosea; Linda Moen.”</p> <p>ACU Complaint, p.3.</p>	<p><u>The Hill</u> Corrected Factual Errors Made In The Original Story. On May 21, 2003, The Hill noted in “Corrections” that “Stacy and Robert Kern, of Los Angeles, Calif., are homeowners, contrary to a suggestion in The Hill's May 7 story about contributions to Sen. John Edwards' (D-N.C.) presidential campaign. The Hill has been informed that the Kerns voted in past elections and previously donated to a PAC. A 1994 California tax lien against Robert Kern was wrongly issued and was released the same year.” [<u>The Hill</u>, 5/21/03]</p> <p><u>The Hill's</u> Inaccurate Statements: “In 1998, Stacy Kern declared Chapter 7 bankruptcy in California, with assets of \$7,925 and liabilities of \$126,769. In 1994, California assessed her husband with a \$33,254 state tax lien, active until 2004. <i>The Kerns are not listed as property holders.</i>” [<u>The Hill</u>, 5/8/03]</p> <ul style="list-style-type: none"> • FACT: Property Records On Lexis Show That The Kerns Have Recently Purchased Property In Santa Clarita. According to property records available on Lexis, Robert E. and Stacy A. Kern purchased a house on July 7, 2002 at 29365 N Canyon Rim Place in Santa Clarita, CA for \$327,500. Records for Los Angeles County. [Lexis, Property Transfer Record For Los Angeles County, CA, 8/5/02] • FACT: 1994 Lien Was Filed Erroneously. State documents indicated that the lien filed by the State of California in 1994 was filed erroneously. A document sent by the State of California to Robert E. Kern, Jr. dated October 27, 1994 indicated that lien number M235496, filed on September 29, 1994 was “erroneously issued.” [Acknowledgement for Erroneously Issued Lien Number(s), 10/27/94; Judgments And Liens, State Of California, La County / Recorder Of Deeds, 10/27/94] <p><u>The Hill's</u> Inaccurate Statements: “Elaine's husband, Thomas Reeves, also gave \$2,000 to the Edwards campaign on March 26. He is identified on campaign filings as a self-employed driver.” [<u>The Hill</u>, 5/7/03]</p>
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- **FACT: Elaine's Husband is "James," Not "Thomas."** In the FEC report, Mr. Reeves reports his name as "James Reeves." Property records on Lexis indicate that Mr. Reeves' name is "James R. Reeves." [Edwards FEC Report, Lexis; St. Petersburg Times, 2/26/96]

The Hill's Inaccurate Statements: "In 1996, Thomas registered as a Republican and voted in the 2000 general election. FEC records show he has not previously been a political contributor." [The Hill, 5/7/03]

- **FACT: Article Omitted Other Political Contributions; Comprehensive Research of Florida Records Show That James Reeves Has Previously Made Campaign Contributions:**

- **Elaine and James Reeves contributed \$200 to Sam Pendino's campaign For judge on 10/25/01.** On October 25, 2001, Elaine L. Reeves and James R. Reeves at 24179 Landing Drive in Lutz, FL both contributed \$100 to Sam Pendino's campaign for Circuit Court Judge. [<http://election.dos.state.fl.us/cgi-bin/contrib.exe>]
- **98 Election Cycle: Elaine and James Reeves contributed to Democratic candidates for governor and attorney general of Florida.** On June 30, 1997, Elaine L. and James R. Reeves contributed \$500 each to Buddy MacKay's campaign – a Democrat running for governor of Florida. On September 17, 1998, Elaine Reeves contributed \$500 to Bob Butterworth's campaign – a Democrat running for attorney general of Florida. [<http://election.dos.state.fl.us/cgi-bin/contrib.exe>]
- **96 Election Cycle: Elaine and James Reeves contributed to Republican candidate for state representative.** In the 1996 election cycle, the Reeves contributed \$500 each on July 30, 1996 to Jim McHugh who was a candidate in the Republican primary for state representative for District 62. [<http://election.dos.state.fl.us/cgi-bin/contrib.exe>]

The Hill's Inaccurate Statements: "In 1996, the Reeves bought their Lutz, Fla., home for \$99,000, with a mortgage of \$94,000. In 2001, the home was assessed at \$95,362." [The Hill, 5/7/03]

	<ul style="list-style-type: none">• FACT: Reeves' home was actually currently assessed at a higher price. According to the Pasco County Property Appraiser's Office, the "total assessment" for the Reeves' home is \$115,246. [http://www.appraiser.pascogov.com/] <p><u>The Hill's Inaccurate Statements:</u> "Los Angeles County records show Else Latinovic has not voted and is not registered to vote. She has no prior record of federal campaign donations." [The Hill, 5/7/03]</p> <ul style="list-style-type: none">• FACT: <u>The Hill</u> article cited the wrong county's voter registration information; Else Latinovic lived in Ventura County, not Los Angeles County. Mr. Dealey, The Hill reporter, reports that Ms. Latinovic was not registered to vote there, but as Mr. Dealey also reported, Ms. Latinovic's condominium is in Simi Valley, which is in Ventura County. [http://www.countyofventura.org/online.asp]
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